

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

DEC 12 2006

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY ES DEPUTY

ROBERT H. MIRACLE,
Plaintiff,

vs.

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,
Defendant.

No. CIV-04-769-W

ORDER

On November 17, 2006, United States Magistrate Judge Gary M. Purcell issued a Supplemental Report and Recommendation in this matter and recommended that the Court grant in part and deny in part the request of the plaintiff, Robert H. Miracle, that he be awarded certain legal and paralegal fees and expenses under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(A). No objection has been filed to the Supplemental Report and Recommendation by either Miracle or the defendant, Jo Anne B. Barnhart, Commissioner of the Social Security Administration.

Upon review of the record and in the absence of any objection, the Court concurs with Magistrate Judge Purcell's findings and recommendations and finds that Miracle, the prevailing party in this matter, is entitled to an award of fees under the EAJA and that the amounts recommended by Magistrate Judge Purcell are reasonable under the circumstances and authorized by law.

Accordingly, the Court

(1) ADOPTS the Supplemental Report and Recommendation issued on November

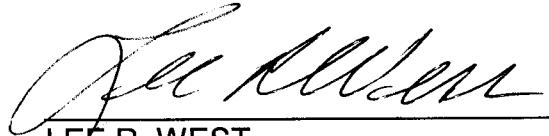
17, 2006;

(2) pursuant to the EAJA, AWARDS Miracle legal fees in the amount of \$6812.50 (54.5 hours x \$125.00), paralegal fees in the amount of \$1706.25 (26.25 hours x \$65.00) and expenses in the amount of \$255.00, for a total award of \$8773.75;

(3) ORDERS that said amount shall be and is hereby payable to Miracle's counsel, Debra W. McCormick; and

(4) further ORDERS that if fees are also awarded under the Social Security Act, 42 U.S.C. § 406(b), McCormick shall refund the smaller of the two awards to Miracle in accordance with Weakley v. Bowen, 803 F.2d 575 (10th Cir. 1986)(to prevent double payment of fees for same work under both statutes, smaller amount given to client).

ENTERED this 12th day of December, 2006.


LEE R. WEST
UNITED STATES DISTRICT JUDGE